

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ANDREW MASSARELLI & MICHELLE	:	
MASSARELLI,	:	
	:	
Plaintiffs,	:	
	:	Civil Action No. 05-266-KAJ
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

**MOTION TO DISMISS COUNT V  
CLAIM OF PLAINTIFF MICHELLE MASSARELLI**

Defendant, the United States, through undersigned counsel, respectfully moves, pursuant to Fed. R. Civ. P. 12(b)(1) & (6), to dismiss Count V of Plaintiffs' Complaint, Claim of Plaintiff Michelle Massarelli for loss of consortium. In support of this motion, the Court is respectfully referred to the accompanying brief. A proposed Order consistent with this motion is attached hereto.

Respectfully submitted,

COLM F. CONNOLLY  
United States Attorney

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Dated: October 7, 2005

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FOR THE DISTRICT OF DELAWARE

ANDREW MASSARELLI & MICHELLE	:	
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	:	
Plaintiffs,	:	
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	:	
UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

**ORDER**

AND NOW, upon consideration of the United States' Motion to Dismiss Count V Claim of Plaintiff Michelle Massarelli, and all papers filed in support thereof and opposition thereto, it is hereby ORDERED that the United States' Motion to Dismiss is GRANTED.

BY THE COURT:

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UNITED STATES DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that on **October 7, 2005**, I electronically filed a **MOTION TO DISMISS COUNT V CLAIM OF PLAINTIFF MICHELLE MASSARELLI** with the Clerk of Court using CM/ECF which will send electronic notification of such filing to the following:

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COLM F. CONNOLLY

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By: /s/Seth M. Beausang

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